

Case No. 23-1174 (consolidated with 23-1221)

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

CITY OF PORT ISABEL, ET AL.,
Petitioners,
v.

FEDERAL ENERGY REGULATORY COMMISSION,
Respondent,

RIO BRAVO PIPELINE COMPANY, LLC AND RIO GRANDE LNG,
LLC,
Respondent-Intervenors.

On Petition for Review of Orders of the Federal Energy Regulatory Commission,
183 FERC ¶ 61,046 (Apr. 21, 2023) and 183 FERC ¶ 61,047 (Apr. 21, 2023)

**MOTION OF TOTALENERGIES GAS & POWER NORTH AMERICA,
INC., EXXON MOBIL CORPORATION, GALP TRADING S.A., SHELL NA
LNG LLC, AND ITOCHU CORPORATION FOR INVITATION TO
PARTICIPATE AS *AMICI CURIAE* IN SUPPORT OF RESPONDENT-
INTERVENOR RIO GRANDE LNG, LLC'S PETITION FOR PANEL
REHEARING AND REHEARING *EN BANC***

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Pursuant to Federal Rule of Appellate Procedure 29(b)(2) and D.C. Circuit Rules 29(b) and 35(f), TotalEnergies Gas & Power North America, Inc., Exxon Mobil Corporation, Galp Trading S.A., Shell NA LNG LLC, and ITOCHU Corporation (“proposed *Amici*”) respectfully request an invitation from this Court to submit a brief as *Amici Curiae* in support of Respondent-Intervenor Rio Grande LNG, LLC’s Petition for Panel Rehearing and Rehearing *En Banc*. A copy of the proposed *amicus* brief is submitted herewith. The brief conditionally submitted to the Court with this motion conforms to the 2,600-word limit provided in Federal Rule of Appellate Procedure 29(b)(4).

As grounds for this Motion, proposed *Amici* state as follows:

1. Proposed *Amici* are entities that will be directly impacted by the Court’s disposition of this appeal. This case concerns the Federal Energy Regulatory Commission’s (“FERC”) reauthorization of the Rio Grande terminal and pipeline projects. Each of the proposed *Amici* have entered into substantial contracts to purchase liquified natural gas (“LNG”) from the Rio Grande terminal ahead of its construction, consistent with industry practice.

2. TotalEnergies Gas & Power North America has executed a 20-year agreement to purchase 5.4 million tonnes per annum (“MTPA”) of LNG from the Rio Grande terminal.

3. Exxon Mobil Corporation is the indirect owner of ExxonMobil Asia Pacific Pte. Ltd., which has executed a 20-year agreement to purchase 1 MTPA of LNG from the Rio Grande terminal.

4. Galp Trading, SA has contracted to purchase approximately 1 MTPA of LNG from the Rio Grande terminal over a 20-year period.

5. Shell NA LNG LLC secured a long-term contract to purchase approximately 2 MTPA of LNG from the Rio Grande terminal over a 20-year period.

6. ITOCHU Corporation has executed a 15-year agreement to purchase 1 MTPA of LNG from the Rio Grande terminal.

7. Due to these significant quantities of contracted LNG, proposed *Amici's* commercial reliance on the flow of LNG, and the difficulties associated with securing an alternate supply of LNG, proposed *Amici* have substantial interests in the maintenance of a timely and efficient process for the development and continued construction of the Rio Grande terminal project. Any delay in construction or the terminal's start up would cause cascading disruptions to each of the proposed *Amici*, who are each at risk of harm to their commitments to customers, capacity reservations, and construction of specialized ships for transport of the LNG.

8. Pursuant to Federal Rule of Appellate Procedure 29(a)(3), the attached *amicus* brief is relevant and desirable because it will assist the Court in understanding and evaluating a question of "exceptional importance." Fed. R. App.

P. 35(b). The proposed *Amici* submit this brief to inform the Court of the disruptive consequences of the panel decision's vacatur of the FERC reauthorization. In the specialized LNG market, understanding the commercial impacts of a vacatur and the fundamental importance of LNG supply to *Amici's* customers, the energy markets, and the public would substantially benefit the Court's inquiry.

9. Counsel for Respondent-Intervenor Rio Grande LLC has informed counsel for the proposed *Amici* that FERC and Respondent-Intervenors Texas LNG Brownsville, LLC, Rio Grande LNG, LLC and Rio Bravo Pipeline Company, LLC have provided blanket consents to the filing of *amicus* briefs, and that counsel for Petitioners does not consent to the filing of *amicus* briefs.

10. Accordingly, the proposed *Amici* respectfully request an invitation from this Court to file an *amicus* brief in support of Respondent-Intervenor Rio Grande LNG, LLC's Petition for Panel Rehearing and Rehearing *En Banc*.

Date: October 28, 2024

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g), I certify the following:

This Motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2) because it contains 568 words. This motion complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6), because this Motion has been prepared in a proportionately spaced typeface using Microsoft Word in 14-point Times New Roman font.

/s/ Stephen M. Nickelsburg

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this motion has been furnished to all counsel of record through the court's CM/ECF System on October 28, 2024.

/s/ Stephen M. Nickelsburg